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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,296	10/31/2001	Thomas D. Benson	10004991 -1	8164

7590 02/13/2004

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
	3627

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/004,296	BENSON	
	Examiner Joseph A. Fischetti	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 31 October 2001.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) 1-7 and 15-20 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 8-14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a networked system, classified in class 709, subclass 310.
- II. Claims 8-14, drawn to inventory management system, classified in class 705, subclass 28.
- III. Claims 15-20, drawn to a method of production, classified in class 700, subclass 91.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Atty. Grant Ritz, of record, on 1/30/04 a provisional election was made without traverse to prosecute the invention of II, claims 8-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-7, 15-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim, 1 it is unclear what is meant by “electronically”, if applicant wishes to state that the data is generated by computer, then he should say it. Second, who determines the required quantity, the supplier or user? Also, this information is communicated from where to where?

Claim 14, it is unclear what is being compared, compare is normally read to mean between two entities, but this claim shows four. Also each entity needs to be defined in the claim to be given weight.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. There is no recited utilization of any technical art in the claim, as such, it can be accomplished purely by human intervention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-11,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Graves et al. Graves et al. disclose determining, electronically, a required quantity of a material (col. 6 lines 50 et seq., the processing unit 106 having forecasting algorithms); communicating said quantity and a time frame to a supplier of said material (col. 6 purchase orders are transmitted to supplier based on these estimates; receiving a confirmation message from said supplier (col. 7 line 32 re confirmation from supplier); and using feedback to maintain a desired quantity of said material on

hand, wherein said feedback is utilized in re-determining said required quantity of a material (see col. 17 lines 28-47 wherein a feedback process is used to re-calculate the needed amount of re-supply).

Re claim 9: col. 17 lines 28-47 wherein a feedback process is used to re-calculate the needed amount of re-supply is done by way of a later in time communication of said quantity and time frame to said supplier as a function of said feedback.

Re claim 10: the step of determining includes processing a product forecast col. 6 line 50-52 and a desired level (see col. 5 line 7 re: level).

Re claims 11, and 13 see col. 18, lines 3-7 which discloses communicating via an ISDN which is a form of the internet.

Re claim 14 as best understood, see col. 17 lines 28-47 wherein a feedback process is used to re-calculate the needed amount of re-supply which involves a comparison between actual and theoretical.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves et al. Graves et al discloses communicating to notify supplier of a order and a reminder is deemed to be a mere repetition of that initial step.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.



A handwritten signature in black ink, appearing to read "Joseph A. Fischetti". Below the signature, the text "Prinj" is written vertically, and "Exm 3627" is written to the right of the signature.